

REMARKS

The Office Action of April 16, 2008 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Upon entry of this Amendment, claims 10-14 remain in the application. Claims 1-9, 15 and 16 are canceled herein. Reconsideration of the claims as amended is respectfully requested.

Renumbered Claims

The Examiner noted that two claims had been inadvertently designated as claim 6 and renumbered claims according to 37 C.F.R 1.126. To confirm this, Applicants have also shown such re-numbered claims above by double brackets and underline. When referring herein to claims by number, Applicants will refer to the renumbered claims unless specifically indicating otherwise.

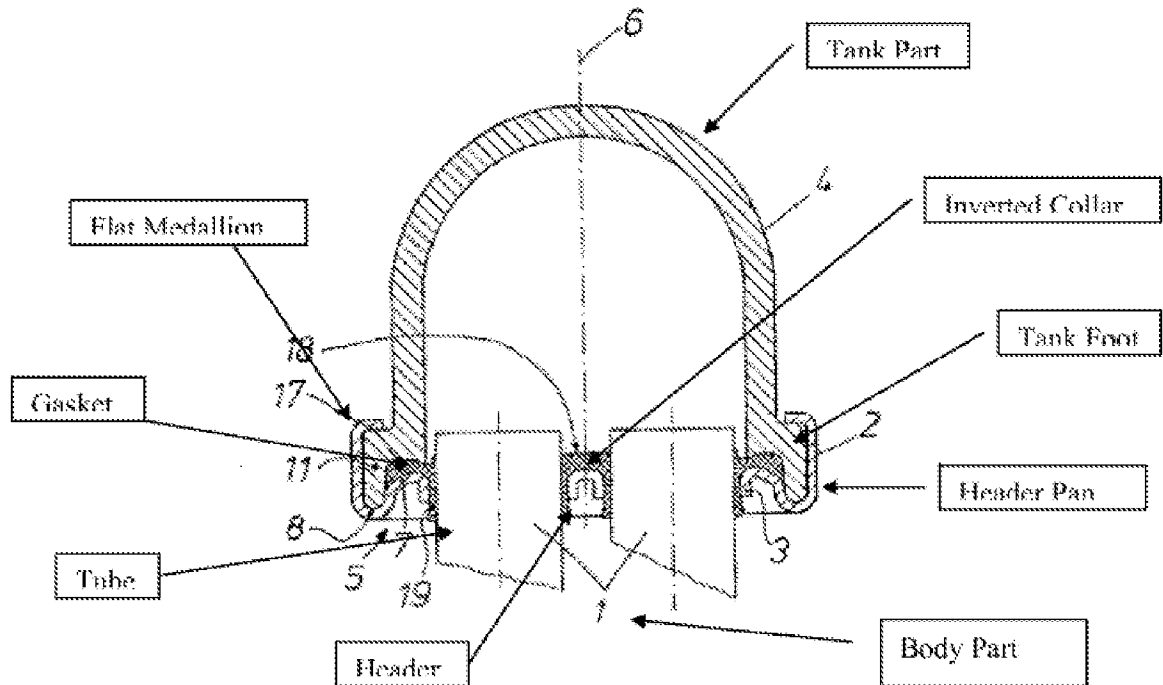
Claim 10 has been revised to more particularly point out and distinctly claim what Applicants regard as their invention. Support for the revisions to claim 10 can be found in the application as filed, at least at page 10, lines 15 to 22, page 2, lines 20-21, and in Fig. 3b, Fig. 3c, and Fig. 9b. No new matter has been added.

Claim Rejections

Claims 1-9 and 16 stand rejected under 35 U.S.C. § 101 for double patenting. Applicants cancel claims 1-9 and 16 herein without prejudice.

Claims 1-3 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Puntambekar et al. (U.S. Patent No. 5,195,581). Applicants submit that the rejection is moot because claims 1-3 and 9 have been canceled herein.

Claim 10 stands rejected under 35 U.S.C. 102(b) as being anticipated by German Patent (DE 295 04 526 U1) (herein referred to as '526). The Examiner states that "'526 discloses a heat exchanger body, a heat exchanger tank part, a header, a tube extending from the heat exchanger body part, a header pan, a tank foot, and a gasket, wherein the pan is a flat pan comprising at least one collar." The Examiner provided the figure below:



Applicants submit that '526 does not disclose a flat header as claimed by applicants. Rather, '526 recites art that Applicants describe as having problems overcome by the instant disclosure:

In order to create such a seal, a depression or trough is formed around the periphery of the header to accommodate the 'edge flange' or 'foot' of the plastic tank, which also serves to retain a header gasket that provides a seal between the tank and header. Correspondingly, the header further includes an oppositely directed 'depression' or 'pan' within the periphery of the outer trough.

(Application as filed, page 2 lines 23-27, emphasis added)

Problems identified in the prior art, therefore, include that of a trough (or well) formed in the periphery of the header tends to increase the overall thickness of the heat exchanger, which can result in packaging problems in the vehicle; and, that of a header width also creates a bending moment, as the offset of the gasket (lower) flange from the header plane generates a second bending moment.

(Application as filed, page 3, lines 25-29, emphasis added)

The headering arrangement of '526 is a headering arrangement wherein a depression or trough is formed in the pan (numbers 7-8 on Fig. 1 from '526 marked-up by the Examiner above or e.g. numbers 29 and 30 in Fig. 6 from '526) in order to receive the gasket and/or the tank foot. Applicants submit that the fact that Applicants' claimed head pan is flat provides advantages over '526, e.g., compact size and manufacturing simplicity, and patentably distinguishes claim 10 from '526. As such, it is submitted that Applicants' invention as defined in claim 10 is not anticipated, taught or rendered obvious by '526, either alone or in combination, and patentably defines over the art of record.

Claims 4-8 and 16 stand rejected under 35 U.S.C. § 103(a). Applicants submit that these rejections are moot because claims 4-8 and 16 have been canceled herein.

Claims 11 - 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over '526. Applicants submit that the rejection is moot as it relates to claim 15 because claim 15 has been canceled herein. Applicants point out that claims 11 – 14 depend ultimately from independent claim 10 – shown above to be patentably distinguished from '526. As such, it is submitted that, through this dependency, Applicants' invention as defined in claims 11-14 is not anticipated, taught or rendered obvious by '526, either alone or in combination, and patentably defines over the art of record.

Furthermore, Applicants respectfully submit that '526 does not disclose a header pan further comprising a flat medallion as recited in claim 12. The Examiner seems to be mistakenly indicating that '526 elements corresponding to Applicants' crimp tabs (3) are medallions. A "medallion" is another word for a "pressing" or "stamping." Applicants submit that one skilled in the art would have an understanding of the word "medallions" that is similar to that explained in U.S. Patent No. 5,873,409: "[S]tart with a workpiece in the form of a pressing, which may also be referred to as a medallion." (Col. 1, lines 18-20) The '526 header pan does not show a flat medallion – it has too many curved and bent surfaces to be considered "flat."

In addition, Applicants respectfully submit that the Examiner's understanding of "collar" as disclosed in claim 13 is erroneous. In order to more particularly point out and distinctly claim what Applicants regard as their invention, claim 10 has further described the collar in accordance with the specification: "the header pan defining a collar forming a tube ferrule." '526 has too much clearance between what the Examiner indicates as an "inverted collar" and the tube to be considered a "tube ferrule" – there is space for a gasket between the parts on '526. A "tube ferrule" would have a tight fit with the tube.

Regarding the § 103(a) rejection of claim 14, Applicants respectfully submit that it is difficult to understand what there is about the '526 gasket (7) that the Examiner considers "basically flat." The issue may be moot, however, since Applicants have revised the claim to use the term "essentially" in place of "basically." (See the remark regarding the objection to claim 13 below.)

For these further reasons, it is submitted that Applicants' invention as defined in claims 12-14, and in those claims depending ultimately therefrom, is not anticipated, taught or rendered obvious by '526, either alone or in combination, and patentably defines over the art of record.

Claim Objections

Claims 9, 11 and 13-16 stand objected to for informalities. The Examiner suggests using a more commonly used phrase in place of "vis a vis" in claim 13. While applicants do not acquiesce to the objection, in order to expedite prosecution of the application, the "vis a vis" recitation has been replaced with "in relation to" as the Examiner has suggested.

The Examiner objects to Claims 9 and 15 because the term "extreme" renders the claims indefinite. Applicants do not acquiesce to the objection, however, it is submitted that this objection is moot since Applicants have cancelled these claims.

Claim 11 is objected to because the term "less than or about" is indefinite. Applicants have obviated the objection by revising the claim with a repeated

recitation and punctuation to explicitly state what was clearly implied in the term "less than or about." Applicants respectfully request withdrawal of the objection.

Claim 14 is objected to because the Examiner asserts that the term "basically" renders the claim indefinite. Although Applicants do not acquiesce to the objection, Applicants have revised claim 14 to recite "essentially" in place of "basically." Applicants respectfully request withdrawal of the objection.

Claim 16 is objected to because the term "appropriate" renders the claim indefinite. Applicants submit that the objection is moot because claim 16 has been canceled herein. Applicants respectfully request withdrawal of the objection.

In summary, claims 10 - 14 remain in the application. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

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